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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 558

Introduced by Assembly Member Feuer
(Principal coauthors: Assembly Members Hernandez and Huffman)

February 21, 2007

An act to *amend Section 25503.4 of, and to add Article 5* (commencing with Section 25547) to Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 558, as amended, Feuer. Toxic chemicals: use reduction.

(1) Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

The act would require the ~~department~~ *Office of Environmental Health Hazard Assessment* to adopt *by June 1, 2008*, a *reportable* list of toxic or hazardous substances, based on specified state and federal listings,

and to annually revise that list of reportable substances. The office would also be required, by June 1, 2009, to adopt, and annually revise, a high priority toxics list consisting of no fewer than 50 of the chemicals identified in the reportable toxic or hazardous substance list and to prioritize that list, as specified.

The bill would require the office to identify by January 1, 2009, the most accurate and effective methods to use to test for, and evaluate the potential hazard traits of chemical substances. The office would be required by July 1, 2010, to review and assess new and emerging testing methods for identifying hazard traits and to report to the Legislature, by July 1, 2010, regarding these testing methods. The office would be required, by January 1, 2009, to develop and make available to the public an information matrix to compile information regarding the hazard traits of chemical substances. The office would be required to annually review and revise those testing methods and the information matrix, and to annually report to the Governor and to the Legislature on the office's progress in identifying the testing methods and preparing the information matrix.

The act would require each large quantity toxics user, as defined, to provide an annual report to the ~~department~~ Department of Toxic Substances Control for each toxic or hazardous substance manufactured, processed, or otherwise used at a facility, in amounts equal to, or exceeding, specified threshold amounts. By July 1, 2010, a large quantity toxics user would also be required to prepare and complete a toxics use reduction plan for each facility for which the toxic user is required to file a report for the previous calendar year. The large quantity toxics user would be required to keep the toxic use reduction plan on the premises of the facility, to make the plan available to the department upon request, and to update the toxics use reduction plan no less than once every 2 years. *The department would be required to adopt regulations to implement these provisions.*

The act would require the department, by October 1, 2008, to prepare and distribute a survey to each business, in certain industries, that would require the business to provide information regarding each facility it owns or operates in the state, the full-time equivalent number of employees at that facility, and whether a listed substance is manufactured, processed, or otherwise used in a facility. A business would be required, by March 1, 2009, to complete the survey and return it to the department, accompanied by a specified fee. The *chief executive officer of the business* would be required to certify the completeness

and accuracy of the returned survey under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.

The department would be required, by July 1, 2009, to determine the total mass of toxic and hazardous substances used in the state in the year 2008 and to adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline. The department would be required, by January 1, 2011, to adopt regulations to require a toxic user to implement toxic use reduction measures to achieve the maximum technologically feasible and cost-effective reductions in the use of toxic or hazardous substances.

The act would create, in the State Treasury, the Toxics Use Reduction Fund, which the department *and the office* would be authorized to expend, upon appropriation by the Legislature. The department would be required to adopt, *in consultation with the office*, by January 1, 2010, regulations to impose a toxics use reporting fee on a large quantity toxics user who uses a listed toxic or hazardous substance. The department would be required to set the amount of the fee based upon the reasonable cost of funding the administrative costs associated with the collection of toxics use data in the annual reports ~~and~~ evaluating the completeness, efficiency, and sufficiency of the toxics use reduction plans, *identifying testing methods, and developing the information matrix*. The reporting fee could be expended only for those administrative costs and activities. A large toxics user who receives a notice from the department to pay a toxic use reporting fee would be required to remit the fee to the department within 90 days of receipt of the notice.

The bill would also require the department to establish a survey fee to be paid by a business required to submit a survey to the department. The fees could be expended only to review and analyze those surveys.

The act would create, in the State Treasury, the High Priority Toxics Technical Assistance and Research Fund, that the department would be authorized upon appropriation by the Legislature to expend only to provide technical assistance to, and research for, high priority toxics use reduction. The bill would require the department, by January 1, 2010, to adopt regulations to impose a high priority toxics use fee on high priority toxics users, based upon the reasonable cost of funding the technical assistance and research associated with assisting high priority toxics users to implement toxics use reduction strategies.

The act would require the department to provide technical assistance to high priority toxics users in implementing effective toxics use

reduction, and in complying with the requirements of the act and to adopt regulations to implement this assistance.

The department would be required to establish a fee schedule specifying the amount of the fees authorized to be imposed to provide services under the act and would require the department to deposit those fees collected in the Toxics Use Reduction Fund, for expenditure by the department, upon appropriation by the Legislature, to only provide those services.

The bill would authorize the department to administratively impose civil penalties upon a person who violates the bill's provisions. The department would be required to deposit the penalties collected in the Toxics Use Reduction Fund, for expenditure by the department, upon appropriation by the Legislature, to enforce the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.4 of the Health and Safety Code
2 is amended to read:
3 25503.4. (a) The office shall adopt a format that allows persons
4 subject to two or more of the following requirements to meet those
5 requirements in one document:
6 (1) The business plan required by this chapter.
7 (2) The risk management and prevention program plan required
8 by Section 25534.
9 (3) The contingency plan required by Division 4.5 (commencing
10 with Section 66001) of Title 22 of the California Code of
11 Regulations and by Part 262 (commencing with Section 262.10),
12 Part 264 (commencing with Section 264.1), or Part 265
13 (commencing with Section 265.1) of, *Subchapter I of Title 40 of*
14 the Code of Federal Regulations.
15 (4) The spill prevention control and countermeasure plan
16 required by Section 25270.5 and by Part 112 (commencing with

1 Section 112.1) or by Part 1510 (commencing with Section 1510.1)
2 of *Subchapter D* of Title 40 of the Code of Federal Regulations.

3 (5) Any accident or spill prevention plan or response plan
4 required by Chapter 6.7 (commencing with Section 25280) or by
5 regulations adopted pursuant to that chapter or required by an
6 underground storage tank ordinance adopted by a city or county.

7 (6) The interim marine facility oil spill contingency plan
8 required by Section 8670.29 of the Government Code and the
9 marine facility oil spill contingency plan required by Section
10 8670.31 of the Government Code.

11 (7) *The report required to be submitted to the department by a*
12 *large toxics user pursuant to Article 5 (commencing with Section*
13 *25547).*

14 (b) The format required by subdivision (a) shall be organized
15 as follows:

16 (1) A central element that will enable persons using the format
17 to report information and data common to all of the requirements
18 described in subdivision (a).

19 (2) Appendices that will contain the additional information
20 unique to each individual requirement described in subdivision
21 (a).

22 (c) The office shall adopt the format required by subdivision
23 (a) in consultation with administering agencies and the Information
24 Management Subcommittee of the Chemical Emergency Planning
25 and Response Commission and in cooperation with the State Water
26 Resources Control Board, the Department of Fish and Game, and
27 the department. The adoption of the format is not subject to Chapter
28 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
29 Title 2 of the Government Code and shall be completed by January
30 4, 1995. To the extent feasible, and within the limits of budgetary
31 constraints, the office, the State Water Resources Control Board,
32 the Department of Fish and Game, and the department shall
33 convene workshops and other public meetings to obtain public
34 assistance on the development of the format.

35 **SECTION 1.**

36 **SEC. 2.** Article 5 (commencing with Section 25547) is added
37 to Chapter 6.95 of Division 20 of the Health and Safety Code, to
38 read:

Article 5. California Toxics Use Reduction Act

25547. This article shall be known and may be cited as the California Toxics Use Reduction Act.

25547.1. The Legislature finds and declares all of the following:

(a) Toxic chemicals are inherently dangerous to the health and well-being of all Californians.

(b) Toxic chemicals entering the environment from chemical releases and leaching from discarded products harm the California environment and diminish productive economic sectors such as agriculture and tourism.

(c) The Environmental Protection Agency estimates that 600 new hazardous waste sites will be added each month to the existing 77,000 sites between now and 2033.

(d) Among children, chemical exposures are estimated to contribute to 100 percent of lead poisoning cases, 10 percent to 35 percent of asthma cases, 2 percent to 10 percent of certain cancers, and 5 percent to 20 percent of behavioral disorders.

(e) Many toxic chemicals accumulate in the tissues of humans and other organisms, putting them at risk of the adverse effects of chronic, long-term exposure such as cancer and reproductive problems.

(f) *The people and businesses of the state require current, accurate information regarding the characteristics of chemicals and products that they use so that they can make informed decisions about the products they use and purchase.*

(g) *Advances in scientific knowledge provide opportunities to modernize methods used to test for potential hazards of chemicals to provide better information.*

(h) *It is important to consider all of the health end points that are relevant to the people of the state in the design and implementation of programs for toxic chemicals.*

(f)

(i) The toxics use fee established by this article would not result in the imposition of a tax within the meaning of Article XIII A of the California Constitution because the amount and nature of that fee has a fair and reasonable relationship to the adverse environmental burdens imposed by the use of a toxic or hazardous substance in this state and there is a sufficient nexus between the toxic use fee imposed by this article and the use of that fee to

1 support research into mitigating the harmful effects of, and finding
2 alternatives to, that toxic or hazardous substance.

3 25547.1.1. It is the intent of the Legislature that the state's
4 chemicals policies avoid duplicative reporting requirements relating
5 to toxic chemicals and, wherever possible, enact meaningful
6 changes to streamline these requirements without compromising
7 the integrity and value of the data provided in those reports.

8 25547.2. For the purposes of this division, the following terms
9 have the following meanings:

10 ~~(a) "Byproduct" means nonproduct outputs of a toxic or~~
11 ~~hazardous substance generated by a production unit, before~~
12 ~~handling, transfer, treatment or release. An otherwise used~~
13 ~~substance is a byproduct when the substance leave a production~~
14 ~~unit.~~

15 (a) "Article" means a manufactured item that meets all of the
16 following criteria:

17 (1) The item is formed to a specific shape or design during
18 manufacture.

19 (2) The item has end-use functions dependent in whole or in
20 part upon its shape or design during end use.

21 (3) The item does not release a toxic or hazardous substance
22 under normal conditions of processing or use of that item at a
23 facility.

24 (b) "Bioaccumulative" means having a bioconcentration factor
25 or bioaccumulation factor greater than or equal to 1,000, or if
26 neither is available, having a logarithm octanol water partition
27 coefficient (log Kow) greater than, or equal to, five.

28 (c) "Byproduct" means a chemical that is produced
29 coincidentally during the production of another chemical.

30 ~~(b)~~

31 (d) "CERCLA" means the Comprehensive Environmental
32 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
33 Sec. 9601 et seq.).

34 ~~(e)~~

35 (e) "Department" means the Department of Toxic Substances
36 Control.

37 ~~(d) "Emission" means a release of a toxic or hazardous substance~~
38 ~~to the environment or a transfer of a toxic or hazardous substance~~
39 ~~in waste to an offsite location.~~

1 (f) “Emission” means solid particles emitted from an air
2 emissions source or activity, or gaseous emissions or liquid
3 droplets from an air emissions source or activity that condense to
4 form particulate matter at ambient temperatures.

5 ~~(e)~~

6 (g) “EPCRA” means the Emergency Planning and Community
7 Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.).

8 ~~(f)~~

9 (h) “Facility” means all buildings, equipment, structures, and
10 other stationary items that are located on a single site or on
11 contiguous or adjacent sites and that are owned or operated by the
12 same person, or by any person who controls, is controlled by, or
13 is under common control with, that person.

14 (i) “Hazard traits” means any of the following:

15 (1) Any of the following effects of a substance:

16 (A) Mutagenicity and genetic toxicity.

17 (B) Reproductive effects, including reduction in fertility and
18 birth outcomes, including, but not limited to, birth weight.

19 (C) Developmental toxicity, including physical and metabolic
20 birth defects that are present at birth or that manifest later, and
21 effects on development of any kind, including, but not limited to,
22 motor or cognitive effects that result from exposure at any point.

23 (D) Cancer.

24 (E) Immunological effects including allergic sensitization.

25 (F) Neurological and neurodevelopmental effects.

26 (G) Effects on organs such as liver, kidney, eye, blood, and
27 heart.

28 (H) Respiratory effects.

29 (I) Endocrine disruption.

30 (J) Other disruptions or perturbations of signaling and hormone
31 systems.

32 (2) Any of the following attributes of a substance:

33 (A) Persistent and bioaccumulative.

34 (B) Very persistent.

35 (C) Very bioaccumulative.

36 ~~(g)~~

37 (j) “High priority toxic substance” means a toxic or hazardous
38 substance that is identified on the high priority toxics list
39 established pursuant to Section 25547.3.1.

40 ~~(h)~~

1 (k) “High priority toxics list” means the list of high priority
2 toxic or hazardous substances established pursuant to Section
3 25547.3.1.

4 ~~(i)~~

5 (l) “High priority toxics user” means a toxics user who
6 manufactures, processes, or otherwise uses a high priority toxic
7 substance in an amount that is the same as, or greater than, the
8 applicable threshold amount specified in Section 25547.4 in a
9 calendar year at a facility.

10 ~~(j)~~

11 (m) “Intermediate product” means either of the following:

12 (1) In chemical manufacturing, a chemical substance, excluding
13 a nonisolated intermediate, that is either of the following:

14 (A) Consumed, in whole or in part, in chemical reactions used
15 for the intentional manufacture of another chemical substance or
16 mixture.

17 (B) Is intentionally present for the purpose of altering the rate
18 of chemical reactions.

19 (2) Except as provided in paragraph (1), a manufactured
20 substance, compound, or product, excluding a nonisolated
21 intermediate, that is any of the following:

22 (A) Consumed, in whole or in part, in a chemical or physical
23 process for the intentional manufacture of another product.

24 (B) Becomes a component part of another product.

25 (C) Is intentionally present for the purpose of aiding the
26 manufacture of another product.

27 ~~(k)~~

28 (n) “Large quantity ~~toxic~~ *toxics* user” means a toxics user who
29 manufactures, processes, or otherwise uses a toxic or hazardous
30 substance in an amount that is the same as, or greater than, the
31 applicable threshold amount in a calendar year at a facility.

32 ~~(t)~~

33 (o) “Manufacture” means to produce, prepare, import, or
34 compound a toxic or hazardous substance, including, but not
35 limited to, producing a toxic or hazardous substance coincidentally
36 during the manufacture, processing, use, or disposal of another
37 substance or mixture of substances, including a toxic or hazardous
38 substance that is separated from the other substance or mixture of
39 substances as a byproduct, and a toxic or hazardous substance that

1 remains in that other substance or mixture of substances as an
2 impurity.

3 ~~(m)~~

4 (p) “Mixture” means a combination of two or more chemicals,
5 if the combination is not, in whole or in part, the result of a
6 chemical reaction. Mixture includes both of the following:

7 (1) A combination that is produced by a chemical reaction but
8 could have been produced without a chemical reaction.

9 (2) A combination that consists of a chemical and associated
10 impurities.

11 ~~(n)~~

12 (q) “Multimedia” means having to do with all environmental
13 media, including, but not limited to, water, land, air, and
14 workplaces within facilities.

15 ~~(o)~~

16 (r) “Nonisolated intermediate” means an intermediate that is
17 not intentionally removed from the equipment in which it is
18 manufactured, excluding a tank or other vessel or equipment in
19 which the substance or product is stored after manufacture, but
20 including any of the following:

21 (1) A reaction vessel in which it is manufactured.

22 (2) Equipment that is ancillary to the reaction vessel or similar
23 equipment.

24 (3) Equipment through which the intermediate passes during a
25 continuous flow process.

26 (s) “Office” means the Office of Environmental Health Hazard
27 Assessment.

28 (t) “Persistent” means having a half-life greater than, or equal
29 to, 40 days in marine or fresh water, 60 days in soil or sediment,
30 or two days in air.

31 ~~(p)~~

32 (u) “Person” means an individual, trust, firm, joint stock
33 company, corporation, partnership, or association engaged in
34 business or in providing services, but does not include the state,
35 and any district, city, county, or political subdivision of the state.

36 ~~(q)~~

37 (v) “Process” means the preparation of a toxic or hazardous
38 substance, after its manufacture, for distribution in commerce
39 under either of the following conditions:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the toxics user so preparing that substance.

(2) As part of an article containing the toxic or hazardous substance.

~~(t)~~

(w) “Product” means a product, a family of products, an intermediate product, a family of intermediate products, or a desired result or a family of results.

~~(s)~~

(x) “Production unit” means a process, line, method, activity, or technique, or a combination or series thereof, used to produce a product.

(y) “Reportable toxic or hazardous substance list” or “reportable list” means the list of toxic or hazardous substances established pursuant to Section 25547.3.

~~(t)~~

(z) “Section 313 of EPCRA” means Section 11023 of Title 42 of the United States Code.

~~(u)~~

(aa) “Sections 101(14) and 102 of CERCLA” means Sections 9606(14) and 9602 of Title 42 of the United States Code.

~~(v)~~

(ab) “SIC code” means the identification code assigned to a facility by the United States Department of Commerce.

~~(w)~~

(ac) “Small quantity toxics user” means a toxics user who is not a large quantity toxics user.

~~(x)~~

(ad) “Threshold amounts” means a threshold for an amount of a toxic or hazardous substance, as established in Section 25547.4.

~~(y)~~

(ae) “Toxics user” means a person who owns or operates a facility that manufactures, processes, or otherwise uses a toxic or hazardous substance and the ~~facility~~ facility is classified in SIC codes 10 to 14, inclusive, 20 to 40, inclusive, 44 to 51, inclusive, 72, 73, 75, or 76, or the corresponding ~~NAICS~~ North American Industry Classification System (NAICS) code.

~~(z)~~

(af) “Toxic” means toxic or hazardous.

1 ~~(aa)~~

2 ~~(ag)~~ (1) “Toxic or hazardous substance” means a substance in
3 a gaseous, liquid, solid, or other form that is identified on the
4 *reportable* toxic or hazardous substance list established pursuant
5 to Section 25547.3.

6 (2) “Toxic or hazardous substance” does not include a substance
7 that meets any of the following conditions:

8 (A) Included in an article.

9 ~~(B) Used as a structural component of a facility.~~

10 ~~(C)~~

11 (B) Present in a product used for routine janitorial or facility
12 grounds maintenance.

13 ~~(D) Present in foods, drugs, cosmetics, or other personal items~~
14 ~~used by employees or other persons at a facility.~~

15 ~~(E)~~

16 (C) Present in a product used for the purpose of maintaining
17 motor vehicles operated by a facility.

18 ~~(F)~~

19 (D) Present in process water or noncontact cooling water as
20 drawn from the environment or from municipal sources, or present
21 in air used either as compressed air or as part of combustion.

22 ~~(G)~~

23 (E) Present in a pesticide or herbicide when used in agricultural
24 applications.

25 ~~(H)~~

26 (F) Present in crude, lubricating, or fuel oils or other petroleum
27 materials being held for direct wholesale or retail sale.

28 ~~(I) Present in crude or fuel oils used in combustion to produce~~
29 ~~electricity, steam, or heat, except when production of electricity,~~
30 ~~steam, or heat is the primary business of a facility.~~

31 ~~(ab) “Toxic or hazardous substance list” means the list of toxic~~
32 ~~or hazardous substances established pursuant to Section 25547.3.~~

33 ~~(ae)~~

34 ~~(ah)~~ “Toxic and hazardous substance baseline” means the total
35 mass of toxic and hazardous substances used in the calendar year
36 commencing on January 1, 2008, as established pursuant to Section
37 25547.9.

38 ~~(ad)~~

39 (ai) “Toxics” means toxic or hazardous substances.

40 ~~(ae)~~

1 (aj) (1) “Toxics use reduction” means ~~in-plant~~ changes in
2 production processes or raw materials that reduce, avoid, or
3 eliminate the use of toxic or hazardous substances or generation
4 of hazardous byproducts per unit of product, so as to reduce the
5 risks to the health of workers, consumers, or the environment,
6 without shifting risks between workers, consumers, or parts of the
7 environment.

8 (2) “Toxics use reduction” does not include, require, or promote
9 incineration, transfer from one medium of release or discharge to
10 other media, offsite or out-of-production unit waste recycling, or
11 such methods as the end-of-pipe treatment of toxic or hazardous
12 substances as waste.

13 ~~(af)~~

14 (ak) “Use” includes, but is not limited to, generating, packaging,
15 treating, storing, emitting, discharging, or disposing of a toxic or
16 hazardous substance.

17 (al) “Very bioaccumulative” means having a bioconcentration
18 factor or bioaccumulation factor greater than or equal to 5,000.

19 (am) “Very persistent” means having a half-life in soil or
20 sediment of greater than 180 days, or a half-life greater than or
21 equal to 60 days in marine or fresh water with evidence of
22 long-range transport.

23 ~~25547.3. (a) The department shall adopt a toxic or hazardous~~
24 ~~substance list pursuant to this section consisting of the chemicals~~
25 ~~identified on the Toxic Chemical List established pursuant to~~
26 ~~Section 313 of EPCRA and the substances identified pursuant to~~
27 ~~Sections 101(14) and 102 of CERCLA.~~

28 ~~(1) The department shall annually revise the toxic or hazardous~~
29 ~~substance list adopted pursuant to this section to add substances~~
30 ~~consistent with changes in the Toxic Chemical List established~~
31 ~~pursuant to Section 313 of EPCRA. The department may annually~~
32 ~~revise the toxic or hazardous substance list to delete substances~~
33 ~~consistent with changes in that list.~~

34 ~~(2) The department shall annually revise the toxic or hazardous~~
35 ~~substance list to add substances consistent with changes in the~~
36 ~~substances identified pursuant to Sections 101(14) and 102 of~~
37 ~~CERCLA. The department may annually revise the toxic or~~
38 ~~hazardous substance list to delete substances consistent with any~~
39 ~~changes in those identified substances.~~

~~(b) In addition to the substances specified in subdivision (a), the department may also add or delete any additional substance from the toxic or hazardous substance list. The department shall not add more than 10 substances in a calendar year to the list, and shall not delete more than 10 substances from the list in a calendar year.~~

~~(1) The department shall provide recommendations proposing the additions or deletions made pursuant to this subdivision.~~

~~(2) A proposed change in the toxic or hazardous substance list made pursuant to this subdivision shall not take effect until the calendar year immediately following the year in which the department makes the change.~~

~~(3) A substance added or deleted by the department pursuant to this subdivision is not subject to the requirements of subdivision (a).~~

~~25547.3.1. (a) The department shall adopt a high priority toxics list consisting of no fewer than 50 of the chemicals identified in the toxic or hazardous substance list adopted pursuant to Section 25547.3 and prioritized by all of the following properties of that substance:~~

~~(1) High production volume in commerce.~~

~~(2) Level of toxicity.~~

~~(3) Potential for human or environmental exposure.~~

~~(4) Disproportionate impact on low-income communities.~~

~~(b) The department shall annually revise the high priority toxics list according to the following criteria:~~

~~(1) The department may delete a toxic or hazardous substance from the high priority toxics list to reflect significant progress in statewide reduction in the use of that substance.~~

~~(2) The department may add a toxic or hazardous substance to the high priority toxic list which the department determines to be of the next highest priority, using the factors specified in subdivision (a), to replace a deleted toxic or hazardous substance.~~

~~25547.3. (a) (1) On or before June 1, 2008, the office shall adopt a reportable toxic or hazardous substance list pursuant to this section consisting of the chemicals identified from the following sources:~~

~~(A) The toxic chemical list established pursuant to Section 313 of EPCRA.~~

1 (B) Substances identified pursuant to Sections 101(14) and 102
2 of CERCLA.

3 (C) The substances identified pursuant to Section 25249.8.

4 (D) The substances identified as toxic air contaminants pursuant
5 to Section 39660, and that are subject to Sections 39660.5, 39661,
6 and 39662, and the substances identified pursuant to Section 14021
7 of the Food and Agricultural Code.

8 (E) The substances identified in the Safe Drinking Water Act
9 (42 U.S.C. Sec. 300f et seq.) pursuant to Sections 300f(1) and
10 300g-1(a) of Title 42 of the United States Code and the candidate
11 contaminants identified pursuant to Section 300g-1(b)(1) of Title
12 42 of the United States Code.

13 (2) On or before January 1, 2009, and on or before January 1,
14 annually thereafter, the office shall revise the reportable toxic or
15 hazardous substance list adopted pursuant to this section to add
16 substances consistent with changes in the chemicals identified
17 pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1).
18 The office may annually revise the reportable toxic or hazardous
19 substance list to delete substances consistent with changes in the
20 chemicals identified pursuant to subparagraphs (A) to (E),
21 inclusive, of paragraph (1).

22 (b) In addition to the substances specified in subdivision (a),
23 the office shall add additional substances to the reportable toxic
24 or hazardous substance list through one or more of the following
25 processes:

26 (1) The office shall add a substance to the reportable toxic or
27 hazardous substance list if the office determines that the substance
28 presents one or more hazard traits.

29 (2) The office shall accept nominations from the public of
30 substances to be added to the reportable toxic or hazardous
31 substance list. The office shall add any substance nominated by
32 the public for inclusion on the reportable toxic or hazardous
33 substance list if it is shown to present one or more hazard traits.

34 (3) The office shall add a substance to the reportable toxic or
35 hazardous substance list if a state, federal, or international body
36 considered to be authoritative by the office or by the state's
37 qualified experts, as identified pursuant to subdivision (d) of
38 Section 25249.8, identifies that substance as presenting a hazard
39 trait.

1 (c) The office shall accept nominations from the public of
2 substances to be deleted from the reportable toxic or hazardous
3 substance list. The office shall not delete any substance nominated
4 by the public for deletion from the reportable toxic or hazardous
5 substance list if that substance presents a hazard trait.

6 (d) (1) The office shall provide notice to the public of any
7 proposed additions or deletions to the reportable toxic or
8 hazardous substance list at least 45 days prior to adoption, and
9 shall, upon request by a member of the public, hold a public
10 hearing regarding the proposed addition or deletion.

11 (2) A proposed change in the reportable toxic or hazardous
12 substance list made pursuant to this subdivision shall not take
13 effect until the calendar year immediately following the year in
14 which the office makes the change.

15 (3) A substance added or deleted by the office pursuant to this
16 subdivision is not subject to the requirements of subdivision (a).

17 25547.3.1. (a) On or before June 1, 2009, the office shall adopt
18 a high-priority toxics list consisting of no fewer than 50 of the
19 chemicals identified in the reportable toxic or hazardous substance
20 list adopted pursuant to Section 25547.3 and prioritized by all of
21 the following properties of that substance:

22 (1) Production volume in commerce or volume of use in the
23 state.

24 (2) Presence of, and magnitude of, a hazard trait.

25 (3) Potential for human or environmental exposure.

26 (4) Disproportionate impact on low-income communities.

27 (5) The availability, as determined by the department, of either
28 of the following:

29 (A) An alternative practice that replaces the use of the toxic or
30 hazardous substance.

31 (B) An alternative substance that replaces the use of the toxic
32 or hazardous substance, if that alternative substance does not
33 demonstrate evidence of a hazard trait, is included in the
34 information matrix created pursuant to subdivision (d) of Section
35 25547.3.2, and has been adequately tested, as determined by the
36 office, after consideration of the review conducted pursuant to
37 subdivision (a) of Section 25547.3.2.

38 (b) On or before January 1, 2010, and on or before January 1,
39 annually thereafter, the office shall revise the high-priority toxics
40 list by adding a toxic or hazardous substance to the high-priority

1 *toxics list that the department determines to be of the next highest*
2 *priority, using the factors specified in subdivision (a), if the office,*
3 *in consultation with the department, determines that sufficient*
4 *reductions in use have occurred in one or more of the substances*
5 *currently listed on the high-priority toxics list.*

6 25547.3.2. (a) *On or before January 1, 2009, the office shall*
7 *identify, through a review of the relevant scientific literature and*
8 *the current practices of state, federal, and international agencies,*
9 *the most accurate and effective methods for testing for, and*
10 *evaluating the potential hazard traits of, chemical substances.*

11 (b) *The office may recommend a combination of testing methods*
12 *for hazard traits, if the office deems that combination is necessary*
13 *to provide the most accurate results.*

14 (c) (1) *On or before July 1, 2010, the office shall review new*
15 *and emerging testing methods, including tools and assays, for the*
16 *identification of hazard traits, including methods using structure*
17 *activity relationships and other in silico computational and*
18 *predictive toxicity approaches, high throughput toxicity assays,*
19 *and other testing methods.*

20 (2) *The office shall assess whether the testing methods reviewed*
21 *pursuant to paragraph (1) provide accurate and effective tests for*
22 *the health related hazard traits and other adverse health effects.*

23 (3) *On or before July 1, 2010, based on the review and*
24 *assessments conducted pursuant to paragraphs (1) and (2), the*
25 *office shall report to the Legislature on the extent that new testing*
26 *methods can serve as the basis for more efficient and rapid*
27 *identification of chemical hazards when compounds in a class*
28 *have been tested and there is insufficient information available on*
29 *chemicals in a class.*

30 (d) *On or before January 1, 2009, the office shall develop and*
31 *make available to the public an information matrix to compile*
32 *information known to the state regarding the hazard traits*
33 *presented by chemical substances, including, but not limited to,*
34 *those substances contained on the reportable toxic and hazardous*
35 *substance list. The office shall design the presentation and*
36 *characterization of the information matrix to be understandable*
37 *to users of the matrix, including consumers and businesses. The*
38 *information compiled in the information matrix shall include, but*
39 *not be limited to, all of the following:*

1 (1) *The results of the hazard traits presented by each chemical*
2 *substance, in a form that allows for comparison among substances,*
3 *based to the degree feasible by the testing methods identified in*
4 *subdivision (a).*

5 (2) *If a testing method has not been identified for a hazard trait*
6 *pursuant to subdivision (a), or if data for that hazard trait does*
7 *not yet exist, a notation that toxicity information for that particular*
8 *hazard trait for that particular substance is unavailable and the*
9 *reason that it is unavailable.*

10 (3) *An identification as to whether the substance is*
11 *bioaccumulative, persistent, very bioaccumulative, or very*
12 *persistent.*

13 (e) (1) *On or before January 1, 2010, and on or before January*
14 *1, annually thereafter, the office shall review and revise the list of*
15 *testing methods identified pursuant to subdivision (a) and the*
16 *information matrix developed pursuant to subdivision (d).*

17 (2) *The office shall annually report to the Governor and to the*
18 *Legislature on the office's progress in identifying the testing*
19 *methods described in subdivision (a) and preparing the information*
20 *matrix described in subdivision (d).*

21 25547.4. For purposes of this article, the threshold amounts of
22 a toxic or hazardous substance shall be in the following amounts:

23 (a) For a toxics user that manufactures or processes a toxic or
24 hazardous substance, the threshold amount for a toxic or hazardous
25 substance shall be 25,000 pounds each year at any one facility.

26 (b) For a toxics user that otherwise uses a toxic or hazardous
27 substance, the threshold amount for a toxic or hazardous substance
28 shall be 10,000 pounds each year at any one facility.

29 (c) If the administrator of the United States Environmental
30 Protection Agency sets a threshold quantity for facility reporting
31 for a toxic or hazardous substance subject to Section 313 of
32 EPCRA that is lower than a corresponding threshold amount
33 specified in subdivision (a) or (b), the corresponding threshold for
34 that substance under this section shall be the same as the federal
35 threshold.

36 25547.5. (a) Each large quantity toxics user shall provide an
37 annual report to the department for each toxic or hazardous
38 substance manufactured, processed, or otherwise used at each
39 facility owned or operated by the large quantity toxics user, in

1 amounts equal to, or exceeding, the applicable threshold amounts,
2 in the following manner:

3 (1) The reporting shall be expressed in terms of the mass of
4 each toxic or hazardous substance manufactured, processed, or
5 otherwise used.

6 (2) In reporting on each toxic or hazardous substance, the large
7 quantity toxics user shall report the total mass of the substance,
8 whether in pure form or contained in a mixture, subject to the
9 establishment of de minimis levels of chemicals in a mixture, as
10 provided in the regulations adopted by the department pursuant to
11 Section ~~25547.13~~ 25547.11.

12 (3) The report shall contain data accounting for toxic or
13 hazardous substances manufactured, processed, or otherwise used
14 during the preceding calendar year.

15 ~~(4) The report shall use reporting forms required by the~~
16 ~~regulations adopted pursuant to Section 313 of EPCRA. To the~~
17 ~~extent that information required by this section is not included in~~
18 ~~the form, that information shall be submitted on supplemental~~
19 ~~forms established by the department.~~

20 *(4) The report shall use the reporting format adopted pursuant*
21 *to Section 25503.4.*

22 (b) Each report required by this section shall contain all of the
23 following facility information:

24 ~~(1) The information required to be submitted under the~~
25 ~~regulations adopted pursuant to Section 313 of EPCRA.~~

26 ~~(2)~~

27 *(1) The quantity of each toxic or hazardous substance at the*
28 *facility that is any of the following:*

29 (A) Manufactured.

30 (B) Processed.

31 (C) Otherwise used.

32 (D) Generated as byproduct prior to any handling, transfer,
33 treatment, or release.

34 (E) Shipped as, a product, or in a product, from the facility.

35 ~~(3)~~

36 (2) For each production unit at the large quantity toxics user's
37 facility in which a toxic or hazardous substance is manufactured,
38 processed, or otherwise used, all of the following information:

1 (A) The information necessary to identify the large quantity
2 toxics user, the facility, the production unit, and the toxic or
3 hazardous substance.

4 (B) An indication of whether the toxic or hazardous substance
5 was used in the production unit in amounts:

6 (i) Greater than zero pounds and less than or equal to 5,000
7 pounds.

8 (ii) Greater than 5,000 pounds but less than or equal to 10,000
9 pounds.

10 (iii) Greater than 10,000 pounds but less than or equal to 100,000
11 pounds.

12 (iv) Greater than 100,000 pounds but less than or equal to
13 500,000 pounds;.

14 (v) Greater than 500,000 pounds.

15 (C) A quantitative or qualitative indication of significant change
16 in toxics use and byproduct generation, compared with the previous
17 reporting year, including toxics use reduction techniques employed.

18 (c) The report shall be accompanied by a fee in the amount
19 determined by the department pursuant to Section 25547.15.

20 (d) For all information submitted under this section, the large
21 quantity toxics user shall maintain at the facility documentation
22 that is necessary to substantiate the information submitted,
23 including, but not limited to, documentation of the quantity of the
24 toxic or hazardous substance used in each production unit and the
25 quantity generated as a byproduct by each production unit.

26 (e) All of the following are exempt from the reporting
27 requirements of this section:

28 (1) A facility with fewer than the equivalent of 10 full-time
29 employees.

30 (2) Activities in laboratories, including quality control
31 laboratories, to the extent and in the manner those activities are
32 exempted from reporting in the regulations adopted pursuant to
33 Section 313 of EPCRA.

34 (f) A facility that claims to be exempt pursuant to subdivision
35 (e) shall maintain onsite documentation supporting all exemption
36 claims.

37 (g) In calculating, measuring, or estimating quantities of a toxic
38 or hazardous substance to be reported under this section, a large
39 quantity toxics user shall report with the maximum accuracy that

1 is feasible and practicable and shall report quantities with accuracy
2 to two significant digits.

3 (h) The department shall review each report filed pursuant to
4 this section within 90 days after the report is filed. If the department
5 discovers a deficiency in a report, the department shall allow the
6 large quantity toxics user 90 days from the date of notice of the
7 deficiency to correct the deficiency, unless the department
8 determines that deficiency was intentional.

9 (i) ~~A senior management official~~ *The chief executive officer of*
10 *the business* shall sign each report certifying its accuracy and
11 completeness.

12 (j) The department shall ~~make available and, to the extent~~
13 ~~practicable, shall~~ require reporting and recording of the report data
14 via electronic submittal.

15 (k) *The department shall ensure that the data reported pursuant*
16 *to the format specified in Section 25503.4 is received by the*
17 *department.*

18 25547.6. (a) (1) On or before July 1, 2010, a large quantity
19 toxics user shall prepare and complete a toxics use reduction plan
20 for each facility for which the toxic user is required to file a report
21 pursuant to Section 25547.5 for the previous calendar year.

22 (2) On or before January 1, 2009, the department shall adopt
23 regulations that specify the criteria for an acceptable toxic use
24 reduction plan. The regulations shall require the toxics use
25 reduction plan to be achieved through any of the following
26 techniques:

27 (A) Input substitution, by replacing a toxic or hazardous
28 substance or raw material used in a production unit with a ~~nontoxic~~
29 ~~or less toxic substance~~; *substance that presents no hazard traits*
30 *or hazard traits that are fewer or are lower in magnitude.*

31 (B) Product reformulation, by substituting, for an existing
32 end-product, a new end-product that ~~is nontoxic or less toxic~~
33 *presents no hazard traits or hazard traits that are fewer or are*
34 *lower in magnitude* upon use, release, or disposal.

35 (C) Production unit redesign or modification, by developing
36 and using production units of a different design than those currently
37 used.

38 (D) Production unit modernization, by upgrading or replacing
39 existing production unit equipment and methods with other
40 equipment and methods based on the same production unit.

1 (E) Improved operation and maintenance of production unit
2 equipment and methods, by modifying or adding to existing
3 equipment or methods, including, but not limited to, those
4 techniques as improved housekeeping practices, system
5 adjustments, product and process inspections, or production unit
6 control equipment or methods.

7 (F) Recycling, reuse, or extended use of toxics, by using
8 equipment or methods that become an integral part of the
9 production unit of concern, including, but not limited to, filtration
10 and other closed loop methods.

11 (b) The toxics use reduction plan shall include a statement of a
12 facilitywide management policy regarding toxics use reduction,
13 and a description of the scope and objectives of the plan.

14 (c) The toxics use reduction plan shall include, for each
15 production unit in which a toxic or hazardous substance is used,
16 all of the following:

17 (1) A comprehensive economic and technical evaluation of
18 appropriate technologies, procedures, and training programs for
19 potentially achieving toxics use reduction for each toxic or
20 hazardous substance.

21 (2) An analysis of current and projected toxics use, byproduct
22 generation, and emissions.

23 (3) An evaluation of the types and amounts of toxic or hazardous
24 substances used.

25 (4) An identification of each technology, procedure, or training
26 program to be implemented for the purposes of achieving toxics
27 use reduction, the anticipated costs of implementation of each
28 technology, procedure, or training program, and the anticipated
29 savings expected due to each technology, procedure, or training
30 program.

31 (5) A schedule for implementation of those technologies,
32 procedures, and training programs.

33 25547.7. (a) A large quantity toxics user shall keep the ~~toxic~~
34 *toxics* use reduction plan prepared pursuant to Section 25547.6 for
35 a facility on the premises of that facility, and shall make the plan
36 available on to the department upon request.

37 (b) A large quantity toxics user shall update the toxics use
38 reduction plan no less than once every two years, on or before ~~by~~
39 July 1 of the applicable year.

1 (c) If the department determines a toxics use reduction plan
2 summary is not in compliance with the requirements of this article,
3 the department shall allow the large quantity toxics user 90 days
4 from the date of the notice of the deficiency to correct the
5 deficiency unless the department determines that the deficiency
6 was intentional.

7 25547.8. (a) On or before October 1, 2008, the department
8 shall prepare and distribute a survey to each business that owns or
9 operates a facility that is classified in SIC codes 10 through 14,
10 inclusive, 20 through 40, inclusive, 44 through 51, inclusive, 72,
11 73, 75, and 76. The survey shall require the business to provide
12 all of the following information:

13 (1) The business shall identify, for the calendar year
14 commencing on January 1, 2008, each facility it owns or operates
15 in the state and the full-time equivalent number of employees at
16 that facility.

17 (2) For each substance identified in the toxic or hazardous
18 substance list established pursuant to Section 25547.3, whether
19 the substance is manufactured, processed, or otherwise used in a
20 facility specified in paragraph (1), and if so, whether the quantity
21 of each use is below 10,000 pounds annually, between 10,000 and
22 25,000 pounds annually, or over 25,000 pounds annually.

23 (b) On or before March 1, 2009, a business shall complete the
24 survey and return it to the department, accompanied by the fee
25 determined by the department pursuant to subdivision (d) of
26 Section 25547.12. The completeness and accuracy of the returned
27 survey shall be certified as complete under penalty of perjury by
28 the *chief executive officer of the business*.

29 (c) On or before July 1, 2009, the department shall analyze the
30 results of the surveys submitted pursuant to this section and shall
31 use this survey to determine the imposition of the toxics use
32 reporting fee pursuant to Section 25547.12.

33 25547.9. On or before July 1, 2009, the department shall, after
34 one or more public workshops, with public notice, and an
35 opportunity for all interested parties to comment, and utilizing the
36 information gathered during the surveys conducted pursuant to
37 Section 25547.8, do both of the following:

38 (a) Determine the total mass of toxic and hazardous substances
39 used in the state in the year 2008.

(b) Adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline, to be used for the purposes of determining the toxics use reduction required pursuant to Section 25547.11.

25547.10. (a) The statewide toxic and hazardous substance baseline established pursuant to Section 25547.9 shall remain in effect unless otherwise amended or repealed.

(b) It is the intent of the Legislature that the statewide toxic and hazardous substance baseline continue in existence and be used to maintain and continue toxics use reduction beyond *the year* 2020.

25547.11. (a) On or before January 1, 2011, the department shall adopt regulations to require a ~~toxic~~ *toxics* user to implement toxic use reduction measures to achieve the maximum ~~technologically feasible and cost-effective reductions in the use of toxic or hazardous substances~~ *feasible and cost-effective reductions in the use of toxic or hazardous substances*.

(b) *The department shall adopt regulations to implement this article, including the information required in the annual reports submitted pursuant to Section 25547.5 and the toxics use reduction plan required pursuant to Section 25547.6.*

25547.12. (a) There is hereby created, in the State Treasury the Toxics Use Reduction Fund, which may be expended by the department *and the office*, upon appropriation by the Legislature, for purposes of this section.

(b) On or before January 1, 2010, the department shall, *in consultation with the office*, adopt regulations to impose a toxics use reporting fee on a large quantity toxics user who manufactures, processes, or otherwise uses a toxic or hazardous substance listed pursuant to Section 25547.3.

(c) (1) The department shall set the amount of the reporting fee upon a large quantity toxics user who manufactures, processes, or otherwise uses a hazardous or toxic substance based upon the reasonable cost of funding the administrative costs associated with the collection of toxics use data in the annual reports required by Section 25547.5 ~~and~~, evaluating the completeness, efficiency, and sufficiency of the toxics use reduction plan prepared pursuant to Section 25547.6, *and the identification of chemical testing methods and the development of the information matrix required by Section*

1 25547.3.2. The department shall deposit the fees in the Toxics Use
2 Reduction Fund.

3 (2) The reporting fees may be expended only for the
4 administrative costs associated with the collection of toxics use
5 data in the annual reports required by Section 25547.5—and,
6 evaluating the completeness, efficiency, and sufficiency of the
7 toxics use reduction plan prepared pursuant to Section 25547.6.

8 (d) The department shall also establish, by regulation, a survey
9 fee required to be paid by a business submitting a survey pursuant
10 to Section 25547.8. The department shall set the amount of the fee
11 based upon the department's reasonable costs of reviewing and
12 analyzing the survey data. The department shall deposit the fees
13 in the Toxics Use Reduction Fund. The survey fees may be
14 expended only to review and analyze the survey data.

15 (e) A large quantity toxics user who receives a notice from the
16 department to pay a toxic use reporting fee pursuant to this section
17 shall remit the fee to the department within 90 days of receipt of
18 the notice.

19 25547.12.1. (a) There is hereby created, in the State Treasury,
20 the High Priority Toxics Technical Assistance and Research Fund,
21 that may be expended by the department, upon appropriation by
22 the Legislature, only for purposes of implementing technical
23 assistance and research for high priority toxics use reduction
24 pursuant to Section 25547.13.

25 (b) (1) On or before January 1, 2010, the department shall adopt
26 regulations to impose a high priority toxics use fee on high priority
27 toxics users who manufacture, process, or otherwise use a high
28 priority toxic substance listed pursuant to Section 25547.3.1.

29 (2) The department shall set the amount of the fee based upon
30 the reasonable cost of funding the technical assistance and research
31 associated with assisting high priority toxics users in implementing
32 toxics use reduction strategies, pursuant to Section 25547.13.

33 25547.13. (a) The department shall provide to high priority
34 toxics users technical assistance in implementing effective toxics
35 use reduction, and in complying with the requirements of this
36 article and other applicable environmental and health and safety
37 laws.

38 (b) The department shall utilize its expertise in source reduction
39 and knowledge of industrial sectors to assist in implementing high

1 priority toxics use reduction as the preferred means of achieving
2 compliance with applicable laws and regulations.

3 (c) The department shall promote and disseminate information
4 concerning high priority toxics use reduction technologies and
5 practices, including compiling technical documents, guidance and
6 case studies that utilize the results of its technical assistance efforts
7 described in subdivision (a).

8 (d) The department shall promote and fund research or pilot
9 projects to develop and demonstrate innovative technologies for
10 high priority toxics use reduction. The department shall negotiate
11 with project partners to establish and maintain public rights to
12 information regarding those technologies.

13 (e) The department shall engage in an outreach program to small
14 businesses that are high priority toxics users and are required to
15 submit reports and plans pursuant to this article, including assisting
16 first-time filers with reporting requirements. The department may
17 conduct training and workshops for high priority toxics users to
18 assist them in meeting their requirements under this article.

19 (f) The department may develop a business and community
20 recognition program to promote the high priority toxics use
21 reduction achievements of the state's industry.

22 (g) The department shall fund research and development into
23 nontoxic alternatives, process changes, or other innovations and
24 toxics use reduction strategies to assist high priority toxics users
25 to reduce the use of high priority toxic substances.

26 (h) The department shall adopt regulations to implement this
27 section.

28 ~~25547.14. (a) All information and records, in document or~~
29 ~~electronic format, received by the department in the course of~~
30 ~~providing technical assistance to a toxics user shall be kept~~
31 ~~confidential and is not considered to be a public record unless one~~
32 ~~of the following apply:~~

33 ~~(1) The toxics user agrees in writing that this information may~~
34 ~~be made available by the department.~~

35 ~~(2) The department determines at its discretion, the information~~
36 ~~pertains to an imminent threat to public health or safety, or to the~~
37 ~~environment.~~

38 ~~(3) Disclosure by the department is required by law.~~

39 ~~(b) The department may, to the extent that it furthers the public~~
40 ~~interest in disseminating information about toxics use reduction,~~

1 ~~make general or generic information available to the public, even~~
2 ~~if it is derived from a toxics user, when it is determined by the~~
3 ~~department that the information or records are not related to secret~~
4 ~~processes, methods of manufacture, or production, or that the~~
5 ~~information or record would not divulge a trade secret.~~

6 25547.14. (a) *Notwithstanding Section 6254.7 of the*
7 *Government Code, if a toxics user believes that information*
8 *provided to a state agency pursuant to this article involves the*
9 *release of a trade secret, the toxics user shall make the disclosure*
10 *to the state agency and notify the state agency in writing of that*
11 *belief. In its written notice, the toxics user shall identify the portion*
12 *of the information submitted to the state agency that it believes is*
13 *a trade secret and provide documentation supporting its*
14 *conclusion.*

15 (b) *Except as provided in this section, the state agency shall*
16 *protect from disclosure a trade secret designated as a trade secret*
17 *by the toxics user, if that trade secret is not a public record.*

18 (c) *Upon receipt of a request for the release of information to*
19 *the public that includes information that the toxics user has notified*
20 *the state agency is a trade secret and that is not a public record,*
21 *the following procedure applies:*

22 (1) *The state agency shall notify the toxics user that disclosed*
23 *the information to the state agency of the request, in writing by*
24 *certified mail, return receipt requested.*

25 (2) *The state agency shall release the information to the public,*
26 *but not earlier than 30 days after the date of mailing the notice of*
27 *the request for information, unless, prior to the expiration of the*
28 *30-day period, the toxics user files an action in an appropriate*
29 *court for a declaratory judgment that the information is subject*
30 *to protection under this section or for a preliminary injunction*
31 *prohibiting disclosure of the information to the public and promptly*
32 *notifies the state agency of that action. In order to prevent the state*
33 *agency from releasing the information to the public, the toxics*
34 *user shall obtain a declaratory judgment or preliminary injunction*
35 *within 30 days of filing an action for a declaratory judgment or*
36 *preliminary injunction.*

37 (d) *This section does not authorize a toxics user to refuse to*
38 *disclose to the state agency information required by this article.*

39 (e) *Any information that a court, pursuant to this section,*
40 *determines is a trade secret and not a public record, or pending*

1 *final judgment pursuant to subdivision (c), shall not be disclosed*
2 *by the state agency to anyone, except to an officer or employee of*
3 *a city or county, the state, or the United States, or to a contractor*
4 *with a city or county, or the state, and its employees, if, in the*
5 *opinion of the state agency, disclosure is necessary and required*
6 *for the satisfactory performance of a contract, for the performance*
7 *of work, or to protect the health and safety of the employees of the*
8 *contractor.*

9 *(f) Notwithstanding Section 25501, for purposes of the section,*
10 *“trade secret” has the same meaning as defined in Section 6254.7*
11 *of the Government Code.*

12 25547.15. (a) The department may establish tuition, or other
13 financial fees for providing services pursuant to this article, and
14 may receive additional funds from grants, gifts, bequests, or other
15 contributions, or through contracts.

16 (b) The department shall establish a fee schedule specifying the
17 amount of the fees authorized to be imposed pursuant to this
18 section, which shall not exceed the department’s reasonable costs
19 of providing those services.

20 (c) The department shall deposit all fees collected pursuant to
21 this section in the Toxics Use Reduction Fund. The fees collected
22 pursuant to this section may be expended upon appropriation by
23 the Legislature only to provide those services.

24 (d) The department shall not charge a fee for any onsite technical
25 assistance activity or service provided to the business community.

26 25547.16. (a) *The department may administratively impose*
27 *upon any person who violates this article a civil penalty of not*
28 *more than two thousand dollars (\$2,000) for each day in which*
29 *the violation occurs.*

30 (b) *The department may administratively impose upon any*
31 *person who knowingly violates this article, after reasonable notice,*
32 *a civil penalty not to exceed five thousand dollars (\$5,000) for*
33 *each day in which the violation occurs.*

34 (c) *The department shall deposit all penalties collected pursuant*
35 *to this section in the Toxics Use Reduction Fund, for expenditure*
36 *by the department, upon appropriation by the Legislature, to*
37 *enforce this article.*

38 ~~SEC. 2.~~

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O